

certain CHX members which trade Nasdaq National Market System securities as specialists may be required by the CHX to report their short interest positions in those securities directly to the NASD.

Second, short interest position information for member organizations which act as specialists on the BSE, PSE or Phlx, will be processed by the clearing corporations utilized by these organizations.

Third, pursuant to an amendment of CBOE Rule 15.1, clearing members of the CBOE for which the CBOE is the DEA, will be required to report any short interest positions to another exchange or the NASD, even if solely a member of the CBOE. The CBOE will designate an exchange or the NASD to receive such reports on a case-by-case basis.<sup>10</sup>

Fourth, the Amex will be sending out a circular to its members informing them of the new requirements. The Amex did not submit a new filing because it is relying on the general language in its Rule 30 to encompass the proposal at hand.<sup>11</sup>

The new reporting requirements being approved herein will be tested by SIAC and the ISG members during the months of March and April, 1995. Testing will be conducted to ensure the reliability of the new reporting requirements, but the new figures will not be reported to the public. During the test period, broker-dealers currently subject to a reporting requirement must report open short interest positions under both the new reporting requirements and such current reporting requirement. After this test period, the new reporting requirements will be the only reporting requirements, and will be mandatory for all short positions. Thus, beginning in May, 1995, all broker-dealers will be reporting open short positions to an SRO under the new requirements. The national numbers generated as of that date will be reported to the public.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b) and 15A.<sup>12</sup> In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) and 15A(b)(6) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public, in that the proposal should enhance the ability of the SROs, both collectively and individually, to monitor short interest reporting, and to reinforce their regulatory and surveillance capabilities in this area. In this regard, the Commission commends the ISG in recognizing that consolidated short interest figures, that would include the regional exchanges, would serve as an important surveillance tool to monitor trading activity. Further, the Commission believes that uniform short interest reporting requirements, and subsequent aggregation and reporting by SIAC, will enable the public to make more informed investment decisions in the United States market.

Finally, the Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in order to allow the SROs to inform their members about the new short interest reporting rules and how the new reporting requirements will be tested and implemented. Further, shortly after the approval date hereof, a circular will be sent out by the ISG, as indicated above, which will contain some additional clarifying information. The Commission notes that the new procedures were noticed in the **Federal Register** for the full statutory period and the Commission did not receive any comments on it. Although the CBOE filing was not published for the full period, the Commission notes that the intent of all of the proposals encompassed herein is the same. To facilitate the orderly implementation of the changes in short interest reporting requirements, the Commission is approving all filings simultaneously.

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule changes (SR-NYSE-94-39; SR-Phlx-94-29; SR-PSE-94-34; SR-BSE-94-15; SR-CHX-94-28; SR-NASD-94-67; SR-CBOE-94-55) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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[Rel. No. IC-20867; File No. 812-9320]

## G.T. Global Growth Series; Notice of Application

January 27, 1995.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("the Act").

**APPLICANTS:** G.T. Global Growth Series ("Growth Series"), G.T. Investment Funds, Inc. ("Investment Funds"), G.T. Investment Portfolios, Inc. ("Investment Portfolios"), G.T. Capital Management, Inc. (the "Adviser"), and G.T. Global Financial Services, Inc. ("Distributor").

**RELEVANT ACT SECTIONS:** Order requested under section 6(c) of the Act exempting applicants from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit certain investment companies to issue multiple classes of shares representing interests in the same portfolios of securities and assess, and under certain circumstances waive, a contingent deferred sales charge ("CDSC") on redemptions of shares.

**FILING DATES:** The application was filed on November 4, 1994, and amended on January 5, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 21, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549.

<sup>10</sup> The CBOE and NASD have represented to the Commission that currently this exception applies to only one firm. That firm will be reporting to the NASD pursuant to an agreement between the CBOE and the NASD. Conversations between Amy Bilbija, Attorney, SEC, and Jim Cangiano, NASD, on January 23, 1995; and Jeff Schroer, CBOE, on January 23, 1995.

<sup>11</sup> See Amex Rule 30 requiring every member to file with the Amex such periodic reports or special reports as the Board of Governors may authorize. The Amex currently requires short interest position reporting of its membership pursuant to this Rule, and will continue to rely on this Rule to require the new reporting.

<sup>12</sup> 15 U.S.C. §§ 78f(b), 78o-3 (1988).

<sup>13</sup> 15 U.S.C. § 78s(b)(2) (1988).

<sup>14</sup> 17 CFR 200.30-3(a)(12) (1991).

Applicants, 50 California Street, San Francisco, California 94111.

**FOR FURTHER INFORMATION CONTACT:**

Bradley W. Paulson, Staff Attorney, at (202) 942-0147 or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

**Applicants' Representations**

**A. Multi-Class Distribution System**

1. Growth Series, Investment Funds, and Investment Portfolios are open-end management investment companies registered under the Act. Applicants request relief on behalf of themselves and any future open-end management investment company for which G.T. Capital (or any person controlling, controlled by, or under common control with G.T. Capital) serves as investment adviser or G.T. Global (or any person controlling, controlled by, or under common control with G.T. Global) serves as principal underwriter. These future companies, together with Growth Series, Investment Funds, and Investment Portfolios, are referred to as the "Companies." Existing and future series of each Company are referred to as the "Portfolios." The Adviser is the investment adviser and administrator for each existing Portfolio, and the Distributor serves as principal underwriter for each existing Portfolio.

2. The existing Portfolios currently offer multiple classes of shares in accordance with existing exemptive orders.<sup>1</sup> Under those orders, shares are offered subject to either a front-end sales charge in accordance with the applicable provisions of rule 22d-1 under the Act and a distribution plan adopted in accordance with rule 12b-1 under the Act or a CDSC and a rule 12b-1 plan. Applicants request an order amending and superseding their prior orders to permit them to offer unlimited classes of shares in accordance with a "Multiple Class System."

3. Under this system, each class of shares of a Portfolio would be identical in all respects to any other class of shares of that Portfolio except: (1) Each class would have different class designations; (2) each class may have a

different sales charge; (3) each class would bear the expense of any payments made under a rule 12b-1 plan and/or shareholder services plan (collectively, the "Plans"), if any, entered into with respect to such class; (4) each class could bear certain other expenses directly attributable only to that class described in condition one, below ("Class Expenses"); (5) only the holders of a class of shares would be entitled to vote on matters pertaining to a Plan, related agreements, or other matters relating to such class; and (6) exchange privileges could vary among the classes.

4. With respect to each class, a Company (on behalf of a Portfolio) could enter into one or more rule 12b-1 plan agreements and/or shareholder services plan agreements ("Plan Agreements") concerning the provision of certain services to shareholders of a particular class by the Adviser, the Distributor, other groups, organizations or institutions.

5. The gross income of each Portfolio will be allocated to each class based upon the relative daily net assets of the class. Expenses of a company that cannot be attributed directly to any one Portfolio ("Company Expenses") will be allocated to each Portfolio based on the relative daily net assets of those Portfolios. Expenses attributable to a particular Portfolio, but not a particular class of shares ("Portfolio Expenses"), will be allocated to each class based upon the relative daily net assets of the class. Class Expenses will be charged directly to the net assets of the particular class and will be borne on a pro rata basis by the outstanding shares of such class. Accordingly, the net income and net asset value per share of (and dividends and other distributions payable to) each class may differ from other classes in the same Portfolio.

6. The shares of different classes of a Portfolio will have different exchange privileges. Applicants anticipate that shares of each class of a Portfolio will be exchangeable for shares of the corresponding class of one or more other Portfolios. Such exchanges will be based on the respective net asset values of the shares being exchanged. All exchange privileges will comply with rule 11a-3 under the Act.

**B. The CDSC**

1. Applicants also request an exemption to allow the Portfolios to impose a CDSC on redemptions of certain classes of shares ("CDSC Shares") and to waive or reduce the CDSC on redemptions under certain circumstances. The sum of any initial sales charge, asset-based sales charge,

and CDSC imposed on shares of a class will not exceed the maximum sales charge provided for in Article III, Section 26(d) of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

2. A Portfolio's CDSC may be imposed at a constant or declining rate over a specified period of years ("CDSC Period"). No CDSC would be imposed on any redemption of CDSC Shares representing reinvestment of dividends or other distributions. As presently contemplated, no CDSC would be imposed on any redemption of CDSC Shares that were purchased more than six years prior to the redemption.

3. The amount of the CDSC would be the lesser of the amount representing a specified percentage of the net asset value of the CDSC Shares at the time of purchase or the amount representing such percentage of the net asset value at the time of redemption. As a result, no CDSC would be imposed on amounts representing an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for CDSC Shares purchased in the CDSC Period. In determining the applicability and rate of any CDSC, it would be assumed that a redemption is made first of shares representing reinvestment of dividends and capital gain distributions, next of shares held by the shareholder for a period equal to or greater than the CDSC Period, and finally of other shares held by the shareholder for the longest period of time. This would result in a charge, if any, imposed at the lowest possible rate.

4. Applicants request relief to permit each Portfolio to waive or reduce the CDSC under certain circumstances. Any waiver or reduction will comply with the conditions contained in paragraphs (a) through (d) of rule 22d-1.

5. Applicants also request the ability to provide a credit for any CDSC paid in connection with a redemption of Shares followed by a reinvestment effected within a specified period not exceeding 365 days of the redemption. If an investor redeems CDSC Shares and pays a CDSC, then subsequently reinvests all of his redemption proceeds in CDSC Shares of the same or a different Fund within 365 days, the investor will be credited for the full amount of the CDSC paid. If the investor chooses instead to invest less than the full amount of the redemption proceeds, the investor will be credited a pro rata amount of the CDSC. The credit will be paid by the principal underwriter.

**Applicants' Legal Analysis**

1. Applicants request an exemption under section 6(c) of the Act from

<sup>1</sup> G.T. Global Growth Series, Investment Company Act Release No. 19022 (Feb. 4, 1994) (notice) and 20101 (Mar. 1, 1994) (order); and G.T. Global Growth Series, Investment Company Act Release No. 18961 (Sept. 17, 1992) (notice) and 19022 (Oct. 14, 1992) (order).

sections 18(f)(1), 18(g), and 18(i) of the Act to the extent that the proposed issuance and sale of multiple classes of shares representing interests in a Fund's Portfolios could be deemed: (A) to result in a "senior security" within the meaning of section 18(g) and to be prohibited by section 18(f)(1), and (B) to violate the equal voting provisions of section 18(i). Applicants believe that the proposed allocation of expenses and voting rights in the manner described above is equitable and would not discriminate against any group of shareholders. The proposed arrangement does not involve borrowings, and does not affect the Funds' existing assets or reserves. The proposed arrangement also will not increase the speculative character of the shares of a Fund.

2. Applicants also request an exemption under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c-1 thereunder to permit the Funds to assess, and under certain circumstances waive, a CDSC in connection with the redemption of shares.

#### **Applicants' Conditions**

Applicants agree that any order granting the requested relief shall be subject to the conditions set forth below.

1. Each class of shares of a Portfolio will represent interests in the same portfolio of investments, and be identical in all respects, except as set forth below. The only differences between the classes of shares of a Portfolio will relate solely to one or more of the following: (a) Expenses assessed to a class pursuant to a Plan, if any, with respect to such class; (b) sales charges applicable to a class of shares, if any (c) the impact of Class Expenses, which are limited to any or all of the following: (i) Transfer agent fees identified as being attributable to a specific class of shares, (ii) stationery, printing, postage, and delivery expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxy statements to current shareholders of a specific class of shares, (iii) Blue Sky registration fees incurred by a specific class of shares, (iv) SEC registration fees incurred by a specific class of shares, (v) expenses of administrative personnel and services as required to support the shareholders of a specific class of shares, (vi) directors' fees or expenses incurred as a result of issues relating to a specific class of shares, (vii) accounting expenses relating solely to a specific class of shares, (viii) auditors' fees, litigation expenses, and legal fees and expenses relating to a specific class of shares, (ix)

expenses incurred in connection with shareholders meetings as a result of issues relating to a specific class of shares, (x) organizational expenses related to a specific class of shares and (xi) any other incremental expenses subsequently identified which should be properly allocated to a specific class of shares and which, as such, are approved by the SEC pursuant to an amended order or by rule or regulation; (d) the fact that the classes will vote separately with respect to matters relating to the applicable distribution plan and related agreements, if any, or any other matters appropriately limited to such class(es); (e) the different exchange privileges of the classes of shares, if any; and (f) the designation of each class of shares of a Portfolio.

2. The board of directors of each Company, including a majority of the directors who are not interested persons of the Company ("Independent Directors"), will have approved the Multiple Class System with respect to a particular Portfolio of the Company prior to the implementation of the system by that Portfolio. The minutes of the meetings of the board of the Company regarding the deliberations of the directors with respect to the approvals necessary to implement the Multiple Class System will reflect in detail the reasons for the determination by the board that the proposed Multiple Class System is in the best interests of each Portfolio and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the appropriate board of directors, including a majority of the Independent Directors. Any person authorized to direct the allocation and disposition of monies paid or payable by a Portfolio to meet Class Expense shall provide to the applicable board and the directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. If any class will be subject to a shareholder services plan, the plan(s) will be adopted and operated in accordance with the procedures set forth in rule 12b-1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b-1, except that shareholders need not enjoy the voting rights specified in rule 12b-1.

5. On an ongoing basis, the board of each Company, pursuant to its fiduciary responsibilities under the Act and otherwise, will monitor each Portfolio, as applicable, for the existence of any material conflicts among the interests of

the classes of its shares, if there is more than one class. The board, including a majority of the Independent Directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Each Portfolio's principal underwriter and investment adviser will be responsible for reporting any potential or existing conflicts to the appropriate board. If such a conflict arises, the Portfolio's principal underwriter and investment adviser, at their own expense, will take such actions as are necessary to remedy such conflict, including establishing a new registered management investment company, if necessary.

6. The principal underwriter of each Portfolio implementing a Multiple Class System will adopt compliance standards with respect to when each class of shares may be appropriately sold to particular investors. Applicants will require all persons selling shares of the Portfolios to agree to conform to such standards.

7. The board of directors of each Company will receive quarterly and annual statements concerning the amounts expended under the Company's Plans in compliance with paragraph (b)(3)(ii) of rule 12b-1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify and fee for services charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the board to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the Independent Directors in the exercise of their fiduciary duties.

8. Dividends and other distributions paid by a Portfolio with respect to each class of its shares, to the extent any dividends and other distributions are paid, will be declared and paid on the same day and at the same time, and will be determined in the same manner and will be in the same amount, except that the amount of the dividends and other distributions declared and paid by a particular class may be different from that of another class because payments made under a Plan or Plan Agreement by a class and Class Expenses will be borne exclusively by that class.

9. The methodology and procedures for calculating the net asset value and dividends and other distributions of the classes and the proper allocation of expenses among the classes have been reviewed by an expert ("Expert") who has rendered a report to applicants,

which has been provided to the staff of the SEC, stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Portfolios that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Portfolios (which the Portfolios agree to provide), will be available for inspection by the SEC staff upon written request to the Portfolios for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on "policies and procedures placed in operation" in accordance with Statement on Auditing Standards ("SAS") No. 70, "Reports on the Processing of Transactions by Service Organizations," of the American Institute of Certified Public Accountants ("AICPA"). Ongoing reports will be on "policies and procedures placed in operation and tests of operating effectiveness" prepared in accordance with SAS No. 70 of AICPA, as it may be amended from time to time, or similar auditing standards as may be adopted by the AICPA from time to time and any such other then applicable auditing standards as may be adopted by the AICPA.

10. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and other distributions of the classes of shares and the proper allocation of expenses among the classes of shares and this representation has been concurred with by the Expert in the initial report referred to in the preceding condition and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in the preceding condition. Applicants will take immediate corrective action if the Expert, or

appropriate substitute Expert, does not so concur in the ongoing reports.

11. The prospectuses of each class of shares will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares may receive different compensation with respect to one particular class of shares over another in the Portfolios.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the board of each Portfolio with respect to the Multiple Class System will be set forth in guidelines which will be furnished to the directors.

13. Each Portfolio implementing a Multiple Class System will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales charges (if any), and exchange privileges applicable to each class of its shares in every prospectus, regardless of whether all classes of its shares are offered pursuant to each prospectus. Each Portfolio will disclose the respective expenses and performance data applicable to all classes of its shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statements of operations, information related to the Portfolio as a whole generally and not on a per class basis. Each Portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Portfolio. To the extent that any advertisement or sales literature describes the expenses or performance data applicable to any class of its shares, each Portfolio will also disclose the respective expenses and/or performance data applicable to all classes of that Portfolio's shares. The information provided by an applicant or other Portfolio for publication in any newspaper or similar listing of a Portfolio's net asset value or public offering price will present each class of that Portfolio's shares separately.

14. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval of, authorization of, or acquiescence in any particular level of payments that any Portfolio may make pursuant to a Plan in reliance on the exemptive order.

15. Applicants will comply with the provisions of proposed rule 6c-10 under the Act, Investment Company Act Release No. 16619 (November 2, 1988), as such rule is currently proposed and as it may be repropounded, adopted or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-2656 Filed 2-2-95; 8:45 am]

BILLING CODE 8010-01-M

**Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Health-Mor Inc., Common Stock, \$1 Par Value) File No. 1-6220**

January 30, 1995.

Health-Mor Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors ("Board") unanimously approved a resolution on October 19, 1994, to withdraw the Security from listing on the Amex and, instead, list the Security on the National Association of Securities Dealers Automated Quotation/National Market System ("NASDAQ/NMS"). According to the Company, the decision of the Board followed a lengthy study of the matter and was based upon the belief that listing of the Security on NASDAQ/NMS will be more beneficial to its stockholders than the present listing on the Amex because:

(a) There will be advantage (potential for research coverage and other financial services for example) of the support of Market Makers (currently there are an average of 11 Market Makers on the average NASDAQ company) versus the single specialist;

(b) The nature of the trading activity and pattern of the Amex specialist, in essence being the buyer and seller of last resort, will be eliminated;

(c) There is greater visibility of the NASDAQ exchange as compared to the Amex through various media;

(d) The history of NASDAQ being a successful promoter of growth companies more appropriately addresses the Company's current position;

(e) There is potentially more capital support for the Company through NASDAQ as each Market Maker is